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April 2, 1996

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Federal Communications Commission
William Caton, Acting Secretary
1919 M Street
Washington, D.C. 20554

RE: WT Docket 96-18

Dear Mr. Caton:

Attached are Reply Comments of Vine Communications in WT Docket No. 96-18 filed with the required four (4) copies. An additional copy is being sent directly to ITS.

If there are any questions regarding this filing, please contact Mr. Joseph Benkert at (303) 292-1200.

Sincerely,

HALIGMAN and LOTTNER, P.C.



Susan R. Sellenberg
Paralegal

attachments

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Before the
Federal Communications Commission
Washington, D.C. 20554

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of

Revision of Part 22 and Part 90 of
the Commission's Rules to Facilitate
Future Development of Paging Systems

WT Docket No. 96-18

Implementation of Section 309(j)
of the Communications Act--
Competitive Bidding

PP Docket No. 93-253

To: The Commission

REPLY COMMENTS OF VINE COMMUNICATIONS

Vine Communications ("Vine"), by its attorneys and pursuant to Section 1.419 of the Commission's Rules, hereby replies to the Comments filed in the above-captioned proceeding. Vine provides paging services on shared channels and its comments are primarily limited to application of the proposals in this proceeding to shared paging channels.

I. Introduction

Vine shares the concern expressed by a number of parties, including Mobile Media Communications, Inc. and ATS Mobile Telephone, Inc., that the Commission has proposed geographic licensing for paging services in order to create mutual exclusivities and, thus, auction opportunities. Auctioning existing paging licenses, especially shared channel paging licenses, would be antithetical to the Commission's purposes and, on the whole, reduce revenues which might be produced through the auction process.

While auctioning of shared paging channels is a bad idea, conversion of these channels to exclusive geographic licenses would be a very positive step providing competitive stability as well as administrative efficiencies for licensees and the Commission, Vine suggests that the Commission begin the transition to exclusive licensing by granting "quasi-exclusive" licenses on a BTA-by-BTA "building block" basis.

The definition of paging service and interference contours should accurately reflect current service areas. Interference and service in boundary areas (between geographic areas) should be resolved through cooperation between licensees.

II. The Commission Should Not Auction Local Paging Authorizations

The auctioning of local paging frequencies would not serve the public interest, but would harm it. Such auctions would change the cost structure of the industry, push paging services beyond the reach of many consumers, and adversely impact other Commission auctions.

A. Auctioning Local Paging Frequencies Would Disserve the Public Interest

It may be appropriate for the Commission to auction any national paging frequencies which may become available or be allotted; but it would be inappropriate for the Commission to auction local (non-national) paging frequencies. The Commission's directive is to regulate the use of radio frequencies in the public interest, convenience and necessity. A recent, secondary, consideration is to recover its costs of administering radio frequencies through auctioning of licenses and assessment of

various fees. As will be shown below, auctioning of local (non-national) paging frequencies may raise funds for the Federal treasury, but will harm the public on the whole. It will alter the cost structure of paging services, putting wireless services beyond the reach of large numbers of consumers and placing the frequencies exclusively in the hands of large businesses.

B. Auctions Would Push Paging Services Out of Reach of Many Consumers

Vine operates a paging system on shared paging frequencies based in the Kingman/Lake Havasu City/Bullhead City, Arizona area. Vine has chosen to expand its system at the request of customers, so that Vine's service area extends from Phoenix and Flagstaff, Arizona, to the east, to Las Vegas to the north, and to Los Angeles to the west. Vine has expanded its service areas through the addition of transmitter locations and networking agreements with paging services providers in adjacent areas. Expanding its service area in this way has allowed Vine to charge a few dollars per month more than its competitors.

Vine's local paging competitors in the Kingman/Lake Havasu City/Bullhead City area have chosen not to expand their service areas in this manner, but to hold down costs to provide a price advantage in marketing their services within the local area. Vine believes that this competitive situation is fairly typical of markets throughout the country.

The fact that local paging companies can successfully pursue a strategy of restricting their service to a local area, and holding their rates even a few dollars less than their wider-area

competitors, is evidence of the price elasticity of paging services. Paging services represent the lowest-cost, least-featured wireless service available. Rates are often as low as \$10-\$15 per month or less, and a difference of just a few dollars makes the difference between whether customers do or do not subscribe. These customers include small businesses and consumers. Business customers include essentially local business.

The impact of the Commission's proposals upon consumer (non-business) use of paging services is of greatest concern. One of the great promises of existing and emerging telecommunications technologies is the capability of working parents to keep in closer contact with their children. As the instance of two-working parent households and single (working) parents has increased, youth crime, youth use of illicit drugs and teenage pregnancy has grown dramatically. Many experts have blamed our increasingly troubled youth upon the breakdown of family communications and relationships resulting from two-working parent and single (working) parent households. Communications technology offers the capability for closer contact between working parents and their children. Significantly, pagers present the least costly means for parents to be always reachable for their children. It is in the public interest to maintain low-cost paging services as a generally available and affordable wireless technology.

Vine notes in this regard that Washington, D.C., and the Commission's decision-making personnel, are not typical of markets and consumers throughout the country. For Commission decision-

making personnel the monthly cost of local paging services is less than the cost of lunch in a Washington, D.C. restaurant. But for millions of Americans, the price of local paging services is significant. The increase in the price of paging services which would be necessitated by auctioning paging frequencies (and increasing the costs for paging service providers) would place paging services beyond the reach of many consumers, contrary to the public interest.

The Commission has suggested that where a licensee is currently providing service in an area, there would be little incentive for other parties to bid on the frequencies, so that there would be little likelihood of the cost being "bid up." Vine suggests that there are in fact strong incentives for competing paging licensees to participate in auctions in bad faith, either directly or through "fronts". That is, narrowband and broadband PCS licensees have bid and will have bid significant amounts for their frequencies. These licensees will be able to provide paging services, but have a much difference cost structure than existing paging licensees. Thus, in any auctions which may be held for existing paging frequencies, it would be in the interest of these licensees to "bid up the price," to assure that all competitors "have enough skin in the game" and compete with similar cost structures. There does not appear to be any mechanism in the Commission's auction procedures which would discourage or prevent a party from participation in the auction as a "shill" - - with intent to not win the auction but to drive up the price.

C. Auctioning of Paging Frequencies Would Adversely Impact Auctioning of Other Services

As Service One Wireless notes in its comments, paging frequencies were authorized as long ago as 1949. Because licensees have invested in and developed the paging market, they have created value in the services so that the Commission can now auction narrowband PCS frequencies and consider auctioning local paging frequencies. After licensees have invested in the paging services and built value into the services, the Commission now proposes to have these licensees bid on the services they developed. Not only is this inequitable, but under these circumstances, parties bidding on newly allotted frequencies must question whether, if they develop these new frequencies into valuable resources, will the Commission find some way to again create mutually exclusivity and reauction those same frequencies to them again? This can only serve to lower the price applicants will bid for new licenses.

D. Auctioning Paging Licenses Will Harm Small Businesses

The Commission has been charged with assuring that some frequencies are placed in the hands of small businesses. Local paging frequencies are perhaps the category of FCC licenses most likely to be owned by "Mom and Pop" businesses. The Commission proposes to force the auctioning of these frequencies, and in the process will force small business operators out of the service, contrary to promoting small business licensure.

III. "Quasi-Exclusive" Geographic Licensing Will Serve the Public Interest

While auctions will disserve the public interest, Vine believes that geographic licensing will serve the public interest. Vine proposes a transition to geographic licensing which will utilize "Quasi-exclusive" licensing as an interim stage.

Geographic licensing will provide certain administrative efficiencies for the Commission and licensees, as the Commission has noted. "Exclusivity" for licensees on currently shared channels will provide some margin of confidence in an increasingly competitive market, encouraging investment in their facilities. It will not limit competition in today's competitive environment, but will assure they are not subjected to unanticipated competition and/or interference on their own frequencies. The difficulties in addressing these interference situations are discussed in the comments of A+ Network.

Vine endorses transition of shared paging channels to exclusive licensing on a geographic basis, but the auction methodology proposed by the Commission would produce inequitable results. Vine instead proposes that each existing paging license on a shared frequency be converted to an exclusive license in each BTA in which service is currently provided, with existing frequency-sharing being grandfathered ("Quasi-exclusivity"). Under Vine's proposal, no new licenses on shared frequencies would be issued, but existing licensees could continue to expand their systems within the BTAs they currently serve, and could assign their licenses to any party. This will allow for consolidation of licenses on shared frequencies; and/or for parties to continue to

aggregate licenses in different geographic areas to form regional and national systems, in response to market forces. It will also, however, provide licensees flexibility to continue to provide essentially local, low-cost services, and avoid the Commission artificially dictating coverage requirements and driving up costs.

Vine proposes that geographic licenses be granted on a BTA-by-BTA basis. As Metrocall stated in its comments in this docket, it is rare for a paging system to serve an entire MSA, though a single integrated system may serve portions of several MSAs. Vine thus suggests that shared frequency paging licensees be granted a quasi-exclusive license for each BTA in which they currently provide paging service. Granting geographic licenses on a BTA-by-BTA basis, and building the BTAs into a licensee's service area, will result in licensed areas which most accurately reflect actual service areas, with flexibility for expansion. Within such a multiple-BTA service area, licensees may build systems to efficiently meet their customer's needs (for example with a transmitter site placed on the boundary between two or more BTAs). Licensees should also be able to transfer licenses on a BTA-by-BTA basis, to provide flexibility for evolution of paging systems.

Vine believes that such Quasi-exclusive licensing will serve the public interest, but Vine does not believe the Commission should adopt minimum service requirements. The public interest will best be served by permitting competitors flexibility to offer the coverage area/price alternatives that the market dictates. Alternatively, to the extent that the Commission does impose

service requirements, the Commission should specifically permit licensees to make alternative showings with respect to each licensed BTA that (i) other licensees are providing paging service covering the BTA, or (ii) the licensee has entered into networking agreements with other licensees and is providing service throughout the requisite portions of the BTA in that manner.

This overall proposal will provide for regulatory simplicity and efficiency, long term migration to channel exclusivity if and when warranted by market conditions, and an array of service options for consumers.

IV. Coverage Areas Should Be Accurately Defined

Many commenters have expressed concern that the service and interfering contours of paging systems as defined under the Commission's proposed methodology would significantly truncate the service areas of existing paging systems. Vine does not address the specific proposal, but urges that a methodology be selected which will accurately represent actual coverage. This is essential for accurate determination of the BTAs in which a licensee will be granted Quasi-exclusive geographic licenses.

Finally, Vine believes that the avoidance both of dead-spots and of interference between adjacent co-channel systems can best be addressed through cooperation between licensees, just as such cooperation has allowed multiple licensees to operate on shared channels. Thus, co-channel licensees in adjacent BTAs could build sites with overlapping coverage, or jointly construct facilities bridging their license areas and coordinate the operation of those

facilities with their exclusive facilities to avoid interference. The Commission need only adopt rules providing that such cooperative coverage agreements may not operate to give a party license rights in the adjacent BTA.

V. Conclusion

The Commission's proposal to auction previously authorized paging frequencies is wrong-headed, and does not adequately meet the public interest, convenience and necessity. The proposal to migrate shared paging frequencies to exclusive licensing, and to migrate paging authorizations to a geographic licensing model, have significant merit. Such migration of the regulatory structure interest can best be accomplished on a flexible, BTA-by-BTA "building block" approach. BTA-wide service should not be forced, to allow for development of an array of service and price offerings to meet the needs of all consumers.

Respectfully submitted,

VINE COMMUNICATIONS

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